

Chapter 43.65. MINING LICENSE TAX

Sec. 43.65.010. Mining license.

(a) A person prosecuting or attempting to prosecute, or engaging in the business of mining in the state shall obtain a license from the department. All new mining operations are exempt from the tax levied by this chapter for three and one-half years after production begins. The tax exemption granted to new mining operations does not extend or apply to the mining of sand and gravel.

(b) The Department of Natural Resources shall certify to the department the date upon which production begins, and the department shall issue a certificate of exemption to the producer accordingly.

(c) The license tax on mining is as follows: upon the net income of the taxpayer from the property in the state, computed with allowable depletion, plus royalty received in connection with mining property in the state

over \$40,000 and not over \$50,000 3 percent

over \$50,000 and not over \$100,000 \$1,500 plus

5 percent of the excess over \$50,000

over \$100,000 \$4,000 plus

7 percent of the excess over \$100,000.

(d) Where mining operations are conducted in two or more places by one person the operations are considered a single mining operation and the tax under this chapter is computed upon the aggregate income derived from all the mining operations. The lessor of a mine operated under a lease is considered to be engaged in mining within this chapter, and the royalties received by the lessor are considered to be the net income of the lessor's mining operations. If the lessor receives royalties from more than one mine or mining operation, the tax payable under this chapter by the lessor is computed upon the aggregate royalties received by the lessor from all the mines or mining operations as though they were a single mining operation.

(e) The allowance for depletion included as an allowable deduction from gross income is a percentage of the gross income from the property during the taxable year, excluding from the gross income an amount equal to the rents or royalties paid by the taxpayer in respect to the property, as follows:

(1) coal mines: 10 percent;

(2) metal mines, fluorspar, flake graphite, vermiculite, beryl, feldspar, mica, talc, lepidolite, spodumene, varite, ball and sagger clay, or rock asphalt mines and potash mines or deposits: 15 percent; and

(3) sulphur mines or deposits: 23 percent.

(f) The allowance for depletion may not exceed 50 percent of the net income of the taxpayer, computed without allowance for depletion, from the property, except that in no case may the depletion allowable be less than it would be if computed on a reasonable cost basis.

(g) Deductions that are not directly attributable to particular properties or processes shall be fairly allocated. To illustrate: If the taxpayer engages in activities in addition to mineral extraction in the state and to ordinary treatment processes, deductions for depreciation, taxes, general expenses, and overhead, which cannot be directly attributed to a specific activity, shall be fairly apportioned between (1) the mineral extraction and ordinary treatment processes, and (2) the additional activities, taking into account the ratio which the operating expenses directly attributable to the mineral extraction and ordinary treatment processes bear to the operating expenses directly attributable to the additional activities. If more than one mineral property is involved, the deductions apportioned to the mineral extraction and ordinary treatment processes shall, in turn, be fairly apportioned to the several properties taking into account their relative production.

(h) Taxes upon royalties shall be paid by the taxpayer receiving the royalties and no deduction, excepting depletion, is allowed.

(i) A license issued under this section must include

(1) the name and address of the licensee;

(2) the nature or type of mining activity to be conducted; and

(3) the year for which the license is issued.

Sec. 43.65.018. Mining business education credit.

(a) A person engaged in the business of mining in the state is allowed a credit against the tax due under this chapter for cash contributions accepted

(1) for direct instruction, research, and educational support purposes, including library and museum acquisitions, and contributions to endowment, by an Alaska university foundation or by a nonprofit, public or private, Alaska two-year or four-year college accredited by a regional accreditation association;

(2) for secondary school level vocational education courses and programs by a school district in the state; and

(3) by a state-operated vocational technical education and training school.

(b) The amount of the credit is

(1) 50 percent of contributions of not more than \$100,000; and

(2) 100 percent of the next \$100,000 of contributions.

(c) Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used.

(d) A contribution claimed as a credit under this section may not

(1) be claimed as a credit under another provision of this title; and

(2) when combined with credits taken during the taxpayer's tax year under AS 21.89.070, 21.89.075, AS 43.20.014, AS 43.55.019, AS 43.56.018, AS 43.75.018, or AS 43.77.045, exceed \$150,000.

(e) In this section,

(1) "school district" has the meaning given in AS 14.03.126;

(2) "vocational education" has the meaning given in AS 43.20.014.

Sec. 43.65.019. Alaska veterans' memorial endowment fund contribution credit. [Repealed, Sec. 25 ch 46, SLA 2002].

Repealed or Renumbered

Sec. 43.65.020. Taxpayer's duties.

(a) A person subject to tax under this chapter shall make a return stating specifically the items of gross income from the property, including royalty received and the deductions and credits allowed by this chapter and the exploration incentive credit authorized by AS 27.30, and other information for carrying out this chapter that the department prescribes. The return must show the mining license number and must be signed by the taxpayer or an authorized agent of the taxpayer, under penalty of unsworn falsification in the second degree. If receivers, trustees, or assigns are operating the property or business, they shall make returns for the person engaged in mining, or the recipient of royalty in connection with mining property. The tax due on the basis of the returns shall be collected in the same manner as if collected from the person of whose business they have custody and control. In a tax year in which a taxpayer applies against the tax levied under this chapter the exploration incentive credit authorized by AS 27.30, the commissioner shall require the taxpayer to submit the accounting of mining operation activities form required by AS 27.30.030(b).

(b) A return made on the basis of the calendar year shall be made before May 1 of the next year. A return made on the basis of a fiscal year shall be made before the first day of the fifth month of the next fiscal year.

(c) The department may grant a reasonable extension of time for filing returns, under regulations adopted by it. Except in the case of a taxpayer going abroad, an extension may not be made for more than six months.

(d) A taxpayer's return shall be made to the department at Juneau. A taxpayer shall make a return either on a calendar year or fiscal year basis, in conformance with the basis used in making the taxpayer's return for federal income tax purposes.

(e) The total amount of tax imposed by this chapter shall be paid on the 30th day of April of the next calendar year, or, if the return is made on the basis of the fiscal year, then on the last day of the fourth month of the next fiscal year.

(f) Every person prosecuting or attempting to prosecute or engaging in the business of mining in the state shall comply with the department's regulations and shall keep such records, give such statements under oath, and make such returns as the department prescribes.

(g) When the department considers it necessary, it may require a person, by notice served upon the person, to make a return, give statements under oath, or keep records as it considers sufficient to show whether or not the person is liable to tax under this chapter. If a person fails to file a return at the time prescribed by law or regulation, or makes, wilfully or otherwise, a false or fraudulent return, the department shall make the return from its own knowledge and from such information as it can obtain through testimony or otherwise. A return so made and subscribed by the department is prima facie good and sufficient for all legal purposes.

Sec. 43.65.030. Application for renewals.

Application for renewal of a mining license shall be made before May 1 of each year.

Sec. 43.65.040. Limitation. [Repealed, Sec. 4 ch 94 SLA 1976. For current law, see AS 43.05.260].

Repealed or Renumbered

Sec. 43.65.050. Violations and penalties. [Repealed, Sec. 4 ch 94 SLA 1976; Sec. 3 ch 166 SLA 1976; Sec. 45, 46 ch 113 SLA 1980. For current law, see AS 43.05.220 and 43.05.290].

Repealed or Renumbered

Sec. 43.65.060. Definitions.

In this chapter, unless the context otherwise requires,

(1) "gross income from property" means the gross income from mining in the state;

(2) "mining" means an operation by which valuable metals, ores, minerals, asbestos, gypsum, coal, marketable earth, or stone, or any of them are extracted, mined, or taken from the

earth; "mining" includes the ordinary treatment processes normally applied by mine owners or operators to obtain the commercially marketable product, but does not include the extraction or production of oil and gas;

(3) "net income of the taxpayer (computed without allowances for depletion) from the property" means the gross income from the property, less allowable deductions attributable to the mineral property upon which the depletion is claimed and the allowable deductions attributable to ordinary treatment processes insofar as they relate to the product of the property, including overhead and operating expenses, development costs properly charged to expense, depreciation, taxes, losses sustained, etc., but excluding allowances for depletion, and deductions for federal income taxes, or for the tax imposed by this chapter;

(4) "new mining operations" means mining operations which began production after January 1, 1953, or which have not been liable to pay a mining license tax under this chapter on net income since January 1, 1948;

(5) "ordinary treatment processes" includes

(A) in the case of coal: cleaning, breaking, sizing, and loading for shipment,

(B) in the case of sulphur: pumping to vats, cooling, breaking, and loading for shipment,

(C) in the case of iron ore, bauxite, ball and sagger clay, rock asphalt, and minerals which are customarily sold in the form of crude mineral product: sorting, concentrating, and sintering to bring to shipping grade and form, and loading for shipment, and

(D) in the case of lead, zinc, copper, gold, silver, platinum metals or fluorspar ores, potash and ores which are not customarily sold in the form of the crude mineral product: crushing, grinding, and beneficiation by concentration (gravity, flotation, amalgamation, electrostatic, or magnetic), cyanidation, leaching, crystallization, precipitation (but excluding electrolytic deposition roasting, thermal or electric smelting or refining), or by substantially equivalent processes or combination of processes used in the separation or extraction of a product from the ore, including the furnacing or quicksilver ore;

(6) "production" means the date on which the initial shipment of products from mining operations is made.